

AN ACT relating to tuition-free courses for employees of public postsecondary institutions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 164.001 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) **"Adjunct faculty" means personnel hired by postsecondary institutions on a contractual part-time basis to teach specific academic courses;**
- (2) "Administrator" means the chief executive officer of the institution;
- ~~(3)(2)~~ "Adult basic education" means instruction in mathematics, science, social studies, reading, language arts, and related areas to enable individuals to better function in society;
- ~~(4)(3)~~ "Benchmarks" means objective measures developed where applicable or practical by the Council on Postsecondary Education to judge the performance of the postsecondary education system and progress toward the goals as stated in KRS 164.003(2);
- ~~(5)(4)~~ "Board" or "governing board" means the board of trustees for the University of Kentucky or the University of Louisville, the board of regents for a comprehensive university, or the board of regents for the Kentucky Community and Technical College System;
- ~~(6)(5)~~ "Board of regents" means the governing board of each comprehensive university and the Kentucky Community and Technical College System;
- ~~(7)(6)~~ "Committee" means the Strategic Committee on Postsecondary Education created in KRS 164.004;
- ~~(8)(7)~~ "Comprehensive university" means the following public institutions: Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, and Western Kentucky University;

~~(9)~~~~(8)~~ "Council" means the Council on Postsecondary Education created in KRS 164.011;

~~(10)~~~~(9)~~ "Customized training" means training in specific academic areas, work processes, or technical skills that are designed to serve a specific industry or industries to upgrade worker skills;

~~(11)~~~~(10)~~ "Goals" means the six (6) goals specified in KRS 164.003(2);

~~(12)~~~~(11)~~ "Independent institution" means a nonpublic postsecondary education institution in Kentucky whose instruction is not solely sectarian in nature, is accredited by a regional accrediting association recognized by the United States Department of Education, and is licensed by the Council on Postsecondary Education;

~~(13)~~~~(12)~~ "Institution" means a university, college, community college, health technology center, vocational-technical school, technical institute, technical college, technology center, or the Kentucky Community and Technical College System;

~~(14)~~~~(13)~~ "Kentucky Community and Technical College System" means the system composed of public community and technical colleges, including those postsecondary institutions operated by the former Cabinet for Workforce Development and those community colleges in the University of Kentucky Community College System on May 30, 1997.

The system also includes institutions created by the board of regents for the Kentucky Community and Technical College System and approved by the General Assembly;

~~(15)~~~~(14)~~ "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential;

~~(16)~~~~(15)~~ "Lower division academic course" means any academic course offered for

college or university credit that is designated as a freshman or sophomore level academic course;

(17)~~(16)~~ "Nonteaching personnel" means any employee who is a full-time staff member, excluding a president, chancellor, vice president, academic dean, academic department chair, or administrator;

(18)~~(17)~~ "Postsecondary education system" means the following public institutions: University of Kentucky, University of Louisville, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, and the Kentucky Community and Technical College System;

(19)~~(18)~~ "P-16 council" or "council of partners" means a local or state council that is composed of educators from public and private preschools, elementary, secondary, and postsecondary education institutions, local board of education members, and may include community and business representatives that have voluntarily organized themselves for the purpose of improving the alignment and quality of the education continuum from preschool through postsecondary education as well as student achievement at all levels;

(20)~~(19)~~ "Public" means operated with state support;

(21)~~(20)~~ "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, or daughter-in-law;

(22)~~(21)~~ "Remedial education" means any program, course, or activity that is designed specifically for students who have basic deficiencies in reading, written or oral communication, mathematics, study skills, or other skills necessary to do beginning postsecondary work as defined by the institution;

(23)~~(22)~~ "Standardized degree program" means a program, approved by the Council on Postsecondary Education, that consists of specific competencies, curriculum, and performance requirements regardless of the providing institution;

~~(24)~~~~(23)~~ "Strategic agenda" means the state strategic postsecondary education agenda described in KRS 164.0203;

~~(25)~~~~(24)~~ "Technical institution" means an educational institution that offers certificates, diplomas, or technical degrees in technical or occupational-related programs, including a facility called a vocational-technical school, technical institute, health technology center, technology center, technical college, or similar designation; and

~~(26)~~~~(25)~~ "Learning outcomes" means the knowledge, skills, and abilities that students have attained as a result of their involvement in a particular set of educational experiences.

➔Section 2. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

- (1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;
- (2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;
- (3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;
- (4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance

- of postsecondary institutions with their academic, service, and research missions;
- (5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;
 - (6) Engage in analyses and research to determine the overall needs of postsecondary education and adult education in the Commonwealth;
 - (7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;
 - (8) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In defining residency, the council shall classify a student as having Kentucky residency if the student met the residency requirements at the beginning of his or her last year in high school and enters a Kentucky postsecondary education institution within two (2) years of high school graduation. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent;
 - (9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing

recommendations to the General Assembly for appropriations to the universities, the Kentucky Community and Technical College System, and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes including but not limited to appropriations to the Kentucky Adult Education Program. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;

- (10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;
- (11) (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.
 - (b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;
- (12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;
- (13) Ensure that the state postsecondary system does not unnecessarily duplicate services

- and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions. Receive and consider an annual report prepared by the Association of Independent Kentucky Colleges and Universities stating the condition of independent institutions, listing opportunities for more collaboration between the state and independent institutions and other information as appropriate;
- (14) Establish course credit, transfer, and degree components as required in KRS 164.2951;
- (15) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;
- (16) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:
- (a) Consistency with the institution's mission and the strategic agenda;
 - (b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;
 - (c) Elimination of unnecessary duplication of programs within and among

institutions; and

- (d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;
- (17) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;
- (18) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;
- (19) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;
- (20) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;
- (21) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;
- (22) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with

- individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment;
- (23) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;
- (24) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;
- (25) Develop in cooperation with each state postsecondary educational institution a comprehensive orientation program for new members of the council and the governing boards. The orientation program shall include but not be limited to the information concerning the roles of the council, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget, plans, policies, strengths, and weaknesses;
- (26) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;
- (27) Select and appoint a president of the council under KRS 164.013;
- (28) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;
- (29) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

- (30) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;
- (31) Consider the role, function, and capacity of independent institutions of postsecondary education in developing policies to meet the immediate and future needs of the state. When it is found that independent institutions can meet state needs effectively, state resources may be used to contract with or otherwise assist independent institutions in meeting these needs;
- (32) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;
- (33) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions and in state and locally operated secondary area technology centers through the waiver of tuition for college credit coursework in the public postsecondary education system. **During the time of their employment:**
- (a)** Any regular **or temporary** full-time employee of a postsecondary public institution or a state or locally operated secondary area technology center may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term; **and**
- (b)** **Any adjunct faculty member of a postsecondary public institution who has taught fifteen (15) or more total credit hours within three (3) successive semesters at the same postsecondary institution may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours**

per term;

- (34) Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the Kentucky Adult Education Program, under the provisions of KRS 164.0203 for raising the knowledge and skills of the state's adult population. The council shall:
- (a) Promote coordination of programs and responsibilities linked to the issue of adult education with the Kentucky Adult Education Program and with other agencies and institutions;
 - (b) Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;
 - (c) Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;
 - (d) Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law in conjunction with the Collaborative Center for Literacy Development: Early Childhood through Adulthood; and
 - (e) Administer the adult education and literacy initiative fund created under KRS 164.041;
- (35) Participate with the Kentucky Department of Education, the Kentucky Board of Education, and postsecondary education institutions to ensure that academic content requirements for successful entry into postsecondary education programs are aligned with high school content standards and that students who master the high school academic content standards shall not need remedial courses. The council

shall monitor the results on an ongoing basis;

- (36) Cooperate with the Kentucky Department of Education and the Education Professional Standards Board in providing information sessions to selected postsecondary education content faculty and teacher educators of the high school academic content standards as required under KRS 158.6453(2)(j);
- (37) Cooperate with the Office for Education and Workforce Statistics and ensure the participation of the public institutions as required in KRS 151B.133; and
- (38) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

➔Section 3. KRS 164.5807 is amended to read as follows:

- (1) Effective upon the affirmative completion of the regional accrediting agency's substantive change process but not later than July 1, 1998, the board of trustees of the University of Kentucky shall delegate to the board of regents of the Kentucky Community and Technical College System the management responsibilities for the University of Kentucky Community College System, except for the Lexington Community College. Responsibilities shall include, but not be limited to, management of facilities and grounds, assets, liabilities, revenues, personnel, programs, financial and accounting services, and support services. In this capacity, the board shall receive and disburse funds and handle other financial matters. The board of regents, in exercising its personnel management responsibilities, shall establish the operating policies and procedures for the University of Kentucky employees in the community colleges. The board of regents shall have the right to appoint and dismiss personnel and to set the compensation for the employees. The president and board of regents of the Kentucky Community and Technical College

System shall have jurisdiction over the use and distribution of the resources to operate the system effectively and efficiently.

- (2) All funds that are appropriated to the University of Kentucky Community College System or funds that are allocated in the University of Kentucky budget for administering the community college system shall be transferred and allotted to the board of regents for the benefit of the University of Kentucky Community College System.
 - (a) The board may divide the assets and funds among the specific organizations and institutions within the community college system to meet the mission of the system.
 - (b) Funds held in escrow or invested solely for the purpose of a community college and bequests, and private funds specifically earmarked for a community college may, at the discretion of that local community college, be managed by the University of Kentucky or that local community college.
 - (c) Private funds, foundation funds, and funds raised by a not-for-profit or nonprofit organization for the use and benefit of a specific program or community college shall be used exclusively for that program or that community college.
- (3) Employees in the University of Kentucky Community College System as of the effective date of the transfer of the management responsibilities of the University of Kentucky Community College System to the Kentucky Community and Technical College System shall be governed by the University of Kentucky administrative regulations as of the effective date of the transfer and any subsequent changes made by the university, except that appeals shall be to the board of regents or to the board's designee. The following provisions shall apply:
 - (a) Accumulated sick leave, compensatory time, and annual leave as of the effective date of the transfer shall be retained by each employee;

- (b) Employees with tenure shall retain their tenure. Employees without tenure shall earn tenure based on personnel policies in effect at the time of their employment. New employees without tenure shall earn tenure based on the new policies established by the board;
 - (c) Employees shall maintain a salary not less than their previous salary as of the effective date of the transfer; and
 - (d) All employees hired as of the effective date of the transfer shall be provided the same benefit package available for other University of Kentucky employees as it may be modified by the University of Kentucky for all employees.
- (4) A person employed as of the effective date of the transfer described in subsections (1) and (3) of this section in a University of Kentucky Community College may elect to participate in the new Kentucky Community and Technical College personnel system. An employee who elects to accept this option may not return to the previous personnel policy. The employee shall have the right to exercise this option at any time.
- (5) New employees hired after July 1, 1997, in the Kentucky Community and Technical College System and on and after July 1, 2004, at the Lexington Community College shall be governed by the rules established by the board.
- (6) *As provided in Section 2 of this Act,* ~~fa~~ regular *or temporary* full-time employee *or adjunct faculty member* may, with prior administrative approval, take one (1) course per semester or combination of summer sessions on the University of Kentucky's campus or at a community college during the employee's normal working hours. The University of Kentucky shall defray the registration fee up to a maximum of six (6) credit hours per semester or combination of summer sessions.
- (7) Students enrolled in the University of Kentucky Community College System shall have all of the responsibilities, privileges, and rights accorded to University of

Kentucky Community College System students as of the effective date of the transfer described in subsections (1) and (3) of this section. The privileges shall include, but not be limited to, tickets to athletic events, homecoming queen contests, the Great Teacher Award Contest, and the University of Kentucky scholarship programs.

- (8) If any conflict arises between the University of Kentucky board of trustees and the Kentucky Community and Technical College board of regents relating to the delegation of authority from the university to the board of regents in the transfer of the Lexington Community College to the Kentucky Community and Technical College System, the Council on Postsecondary Education shall resolve the conflict.
- (9) Notwithstanding any statute to the contrary, the governance and management responsibilities for the Lexington Community College are delegated to the Kentucky Community and Technical College System. The agreement entitled "Memorandum of Agreement Among the University of Kentucky, the Kentucky Community and Technical College System and Lexington Community College Pursuant to House Joint Resolution 214" signed by the respective institutions on July 1, 2004, shall remain in force and effect after June 20, 2005.

➔Section 4. KRS 15.257 is amended to read as follows:

- (1) The Office of the Attorney General shall, within ninety (90) days of June 20, 2005, and thereafter, within ninety (90) days of the effective date of any legislation amending the provisions of the Open Meetings Act or the Open Records Act, distribute to all county judge/executives, mayors, county attorneys, city attorneys, superintendents of public school districts, presidents of each of the state public postsecondary education institutions identified in KRS 161.220(4)(b) or 164.001(~~14~~)(~~13~~) or (~~18~~)(~~17~~), and attorneys of public school districts and public postsecondary education institutions throughout Kentucky written information prepared by the Office of the Attorney General that explains the procedural and

substantive provisions of the Open Meetings Act, KRS 61.805 to 61.850, and the Open Records Act, KRS 61.870 to 61.884, together with the information required by KRS 171.223 to be prepared by the Department for Libraries and Archives concerning proper retention and management of public records. This distribution may be by electronic means.

- (2) All superintendents of public school districts and the presidents of each of the state public postsecondary education institutions identified in KRS 161.220(4)(b) or 164.001~~(14)~~~~(13)~~ or ~~(18)~~~~(17)~~ shall be responsible for designating and submitting the names and addresses of the attorneys to whom this information shall be disseminated to the Office of the Attorney General.

➔Section 5. KRS 164.2843 is amended to read as follows:

Each institution of the postsecondary education system, as defined in KRS 164.001~~(18)~~~~(17)~~, that provides in-state tuition for nonresident children of graduates may provide the same in-state tuition for nonresident siblings of graduates.

➔Section 6. KRS 164.465 is amended to read as follows:

- (1) The presidents of state postsecondary education institutions identified in KRS 161.220(4)(b) or 164.001~~(14)~~~~(13)~~ or ~~(18)~~~~(17)~~ shall distribute the written information provided by the Office of the Attorney General and the Department for Libraries and Archives under KRS 15.257 and 171.223 to each board of regents or governing board member of their university. Distribution shall be accomplished within sixty (60) days of receiving the written information from the Office of the Attorney General and the Department for Libraries and Archives. Distribution to newly appointed members shall be accomplished within sixty (60) days of their appointment. The distribution may be by electronic means.
- (2) The presidents of state public postsecondary education institutions, as identified in subsection (1) of this section, shall require signatory proof that each board of regents or governing board member has received the written information as required

under subsection (1) of this section, shall maintain documentation of receipt on file, and shall certify to the Office of the Attorney General that the written information has been distributed as required.